

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 60th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Diane Rice on February 20, 2007 at
8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Diane Rice, Chairman (R)
Rep. Dave Gallik, Vice Chairman (D)
Rep. Ron Stoker, Vice Chairman (R)
Rep. Douglas Cordier (D)
Rep. Robyn Driscoll (D)
Rep. Bob Ebinger (D)
Rep. George Everett (R)
Rep. Julie French (D)
Rep. Rick Jore (C)
Rep. Krayton Kerns (R)
Rep. Roger Koopman (R)
Rep. Deborah Kottel (D)
Rep. Tom McGillvray (R)
Rep. Jesse O'Hara (R)
Rep. Ken Peterson (R)
Rep. Holly Raser (D)

Members Excused: None.

Members Absent: Rep. John Ward (R)

Staff Present: David Niss, Legislative Branch
Pam Schindler, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 656, HB 657, HB 660, HB 661, HB
674, HB 676, 2/13/2007
Executive Action: HB 645, HB, 590, HB 676, HB 657, HB
656, HB 660, HB 674, HB 624, HB
625, HJ 25, HB 714, HB 712, HB 653,
HB 629, HB 641

HEARING ON HB 657

Opening Statement by Sponsor:

00:01:15 Rep. Bob Ebinger (D), HD 62, opened the hearing on HB 657, Allow owner to post bond within 30 days of action to foreclose construction lien.

Proponents' Testimony:

00:03:00 Nancy MacCracken, Senior Law Clerk, 6th Judicial District

[EXHIBIT\(juh38a01\)](#)

Opponents' Testimony:

00:07:12 Carl Schweitzer, Executive Director, Montana Sub-Contractors Association

00:12:16 Margaret Morgan, Greater Montana Independent Electrical Contractors Association

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

00:13:52 Rep. Ebinger

[EXHIBIT\(juh38a02\)](#)

In support of HB 657

[EXHIBIT\(juh38a03\)](#)

In opposition to HB 657

HEARING ON HB 656

Opening Statement by Sponsor:

00:16:53 Rep. Galen Hollenbaugh (D), HD 81, opened the hearing on HB 656, Fund community grants for restorative justice and alternatives to incarceration.

Proponents' Testimony:

00:18:54 Matthew Dale, Director, Office of Victims Services and Restitution, Department of Justice, State of Montana

00:23:03 Sen. Christine Kaufmann, SD 41

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:26:25 Rep. McGillvray
00:26:57 Mr. Dale
00:29:34 Rep. French
00:30:20 Mr. Dale
00:32:18 Rep. Koopman
00:34:01 Mr. Dale
00:35:52 Rep. Cordier
00:36:33 Mr. Dale
00:39:22 Rep. Peterson
00:39:37 Mr. Dale

Closing by Sponsor:

00:40:02 Rep. Hollenbaugh

HEARING ON HB 660

Opening Statement by Sponsor:

00:41:05 Rep. Jill Cohenour (D), HD 78, opened the hearing on HB 660, Protect property of military personnel.

Proponents' Testimony:

00:44:34 Roger Hagen, Montana Air and National Guard, Enlisted and Officers Services, State of Montana
00:46:17 Colonel Jim Jacobsen, Legislative Chairman, Montana American Legion
00:47:23 Lieutenant Colonel James P. Moran, Judge Advocate General, Montana Department of Military Affairs

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:48:38 Rep. Kottel
00:49:02 Lt. Col. Moran

Closing by Sponsor:

00:58:30 Rep. Cohenour

HEARING ON HB 674

Opening Statement by Sponsor:

00:59:43 Rep. Michael Lange (R), HD 55, opened the hearing on HB 674, Establish qualified immunity defense.

Proponents' Testimony: None

Opponents' Testimony:

01:02:07 Al Smith, Montana Trial Lawyers Association
01:05:07 Larry Anderson, self, Attorney
01:11:20 Beth Brenneman, Montana Advocacy Program
01:14:23 Jeff Barbor, Montana Environmental Information Center

Informational Testimony:

01:15:47 Jim Kembel, for Bob Worthington, Municipal Insurers Group

Questions from Committee Members and Responses:

01:16:35 Rep. Gallik
01:17:24 Rep. Lange

Closing by Sponsor:

01:23:31 Rep. Lange

01:24:09 Break
01:34:31 Reconvene

HEARING ON HB 676

Opening Statement by Sponsor:

01:34:37 Rep. Elsie Arntzen (R), HD 53, opened the hearing on HB 676, Allow taking of blood sample in non-DUI cases.

Proponents' Testimony:

01:39:06 Brenda Nordlund, Assistant Attorney General, Department
of Justice, State of Montana
01:45:57 Michael Colyer, Traffic Sergeant, City of Missoula
Police Department
01:50:19 David Carter, Deputy County Attorney, for Dennis
Paxinos, Yellowstone County Attorney

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

01:53:32 Rep. Rice
01:53:46 Mr. Colyer

Closing by Sponsor:

01:55:34 Rep. Arntzen

Committee Business:

01:55:30 Chairman Rice

EXECUTIVE ACTION ON HB 645

01:58:44 **Motion:** Rep. Stoker moved that **HB 645 DO PASS.**

Discussion:

01:59:03 Rep. Driscoll
01:59:47 Rep. Kottel
02:02:11 Rep. O'Hara

02:02:54 **Vote:** Substitute motion that **HB 645 BE TABLED** carried
16-1 by voice vote with Rep. Peterson voting no. Reps.
Ward and McGillvray voted by proxy.

EXECUTIVE ACTION ON HB 590

02:03:21 **Motion:** Rep. McGillvray moved that **HB 590 DO PASS.**

02:03:44 **Motion:** Rep. Everett moved that **HB 590 BE AMENDED.**
EXHIBIT(juh38a04)

02:04:46 **Vote:** Motion that **HB 590 BE AMENDED** carried
unanimously by voice vote. Rep. Ward voted by proxy.

02:04:53 **Motion:** Rep. Stoker moved that **HB 590 DO PASS AS**
AMENDED.

Discussion:

02:05:06 Rep. Driscoll
02:05:26 Rep. Peterson
02:05:54 Rep. Koopman
02:06:43 Rep. Ebinger
02:07:18 Rep. Stoker
02:07:51 Rep. Rice

02:08:02 **Vote:** Motion that **HB 590 DO PASS AS AMENDED** carried 9-
8 by roll call vote with Reps. Cordier, Driscoll,
Ebinger, French, Gallik, Kottel, Peterson, and Raser
voting no. Rep. Ward voted by proxy.

EXECUTIVE ACTION ON HB 676

02:09:40 **Motion:** Rep. Stoker moved that **HB 676 DO PASS.**

Discussion:

02:09:48 Rep. Peterson
02:10:44 Rep. Stoker
02:11:04 David Niss, Legislative Services
02:12:31 Rep. Rice

02:13:47 **Vote:** Motion that **HB 676 DO PASS** failed 6-11 by roll
call vote with Reps. Raser, Cordier, Driscoll,
Peterson, O'Hara, and Ebinger voting aye. Rep. Ward
voted by proxy.

02:14:02 **Motion/Vote:** Rep. Stoker moved that **HB 676 BE TABLED**
AND THE VOTE REVERSED. Motion carried unanimously by
voice vote. Rep. Ward voted by proxy.

EXECUTIVE ACTION ON HB 657

02:15:17 **Motion:** Rep. McGillvray moved **HB 657 DO PASS.**

Discussion:

02:15:29 Rep. French
02:16:07 Rep. Ebinger
02:17:11 Rep. Stoker
02:18:34 Rep. Peterson
02:20:54 Rep. Gallik
02:23:31 Rep. Kottel
02:22:26 Rep. McGillvray
02:25:16 Rep. Koopman
02:25:46 Rep. Peterson
02:26:49 Rep. Ebinger
02:28:07 Rep. Stoker

02:28:37 **Motion:** Rep. Peterson moved that **HB 657 BE AMENDED with a CONCEPTUAL AMENDMENT for PAGE 1, LINE 14, STRIKING "COMMENCEMENT", INSERT "...WITHIN 30 DAYS OF THE COMPLAINT...."**.

02:29:47 **Vote:** Motion that **HB 657 BE AMENDED** carried unanimously by voice vote. Rep. Ward voted by proxy.

02:29:55 **Motion/Vote:** Rep. Stoker moved that **HB 657 DO PASS AS AMENDED**. Motion carried 13-4 by roll call vote with Reps. Jore, Koopman, McGillvray, and Rice voting no. Rep. Ward voted by proxy.

EXECUTIVE ACTION ON HB 656

02:31:09 **Motion:** Rep. Stoker moved that **HB 656 DO PASS.**

Discussion:

02:31:27 Rep. Peterson
02:31:57 Rep. French
02:32:30 Rep. Koopman

02:33:25 **Substitute Motion/Vote:** Rep. Stoker made a substitute motion that **HB 656 BE TABLED**. Substitute motion carried 11-6 by voice vote. Reps. Raser, French, Kottel, Ebinger, Cordier, and Gallik voting no. Rep. Ward voted by proxy.

EXECUTIVE ACTION ON HB 660

02:34:34 **Motion:** Rep. Stoker moved that **HB 660 DO PASS.**

Discussion:

02:35:06 Rep. Koopman

02:35:19 Rep. Kottel

02:37:23 Rep. Koopman

02:37:32 Rep. Peterson

02:38:20 **Substitute Motion/Vote:** Rep. Stoker made a substitute motion that **HB 660 BE TABLED**. Substitute motion carried 13-4 by voice vote. Reps. French, Driscoll, Ebinger, and Gallik voted no. Rep. Ward voted by proxy.

EXECUTIVE ACTION ON HB 674

02:40:18 **Motion:** Rep. Stoker moved that **HB 674 DO PASS.**

Discussion:

02:40:25 Rep. Gallik

02:40:57 Rep. Kottel

02:43:01 **Vote:** Motion that **HB 674 DO PASS** failed 1-16 by roll call vote with Rep. Peterson voting aye. Rep. Ward voted by proxy.

02:43:45 **Motion/Vote:** Rep. Stoker moved that **HB 674 BE TABLED AND THE VOTE REVERSED**. Motion carried unanimously by voice vote. Rep. Ward voted by proxy.

EXECUTIVE ACTION ON HB 624

02:44:19 **Motion:** Rep. Stoker moved that **HB 624 DO PASS.**

Discussion:

02:44:32 Rep. French

02:45:03 Rep. Peterson

02:45:46 Mr. Niss

02:47:26 **Vote:** Motion that **HB 624 DO PASS** carried 16-1 by voice vote with Rep. Gallik voting no. Rep. Ward voted by proxy.

EXECUTIVE ACTION ON HB 625

02:48:28 **Motion:** Rep. Stoker moved that **HB 625 DO PASS.**

Discussion:

02:48:37 Rep. Driscoll

02:49:47 Rep. Kottel

02:54:26 Rep. French

02:54:53 Rep. Gallik

02:55:37 Rep. Jore

02:57:50 **Vote:** Motion that **HB 625 DO PASS** failed 8-9 by roll call vote with Reps. Jore, Kerns, Koopman, McGillvray, O'Hara, Peterson, Stoker, and Ward voting aye. Reps. Ward and Driscoll voted by proxy.

02:58:35 **Motion/Vote:** Rep. Stoker moved that **HB 625 BE TABLED AND THE VOTE REVERSED.** Motion carried unanimously by voice vote. Reps. Ward and Driscoll voted by proxy.

EXECUTIVE ACTION ON HJ 25

02:59:15 **Motion:** Rep. McGillvray moved that **HJ 25 DO PASS.**

Discussion:

02:59:44 Rep. Jore

03:00:48 Rep. Peterson

03:01:31 Rep. Rice

03:01:58 **Vote:** Motion that **HJ 25 DO PASS** carried unanimously by voice vote. Rep. Ward voted by proxy.

EXECUTIVE ACTION ON HB 714

03:02:58 Motion: Rep. Stoker moved that **HB 714 DO PASS.**

Discussion:

03:03:09 Rep. Peterson

03:04:00 Rep. Driscoll

03:04:31 Rep. Rice

03:04:36 Rep. Gallik

03:06:01 Rep. Cordier

03:06:31 **Motion:** Rep. Peterson moved that **HB 714 BE AMENDED with a CONCEPTUAL AMENDMENT for PAGE 1, LINE 11, STRIKE "DISEASE" INSERT "DEATH"**.

03:07:04 **Vote:** Motion that **HB 714 BE AMENDED** carried unanimously by voice vote. Rep. Ward voted by proxy.

03:07:27 **Motion/Vote:** Rep. Stoker moved that **HB 714 DO PASS AS AMENDED** failed 8-9 with Reps. Driscoll, Ebinger, French, Gallik, Kerns, Kottel, Peterson, and Raser voting aye. Rep. Ward voted by proxy.

Discussion:

03:07:39 Rep. French
03:08:32 Rep. Peterson
03:10:03 Rep. Rice

03:11:37 **Motion/Vote:** Rep. Stoker moved that **HB 714 BE TABLED AND THE VOTE REVERSED**. Motion carried unanimously by voice vote. Rep. Ward voted by proxy.

EXECUTIVE ACTION ON HB 712

03:12:03 **Motion:** Rep. Stoker moved that **HB 712 DO PASS**.

Discussion:

03:12:17 Rep. Jore
03:13:40 Rep. Gallik
03:14:59 Rep. Kottel
03:19:37 Rep. Koopman

03:20:34 **Vote:** Motion that **HB 712 DO PASS** carried 10-7 by roll call vote with Reps. Gallik, French, Raser, Driscoll, Kottel, and Ebinger voting no. Rep. Ward voted by proxy.

EXECUTIVE ACTION ON HB 653

03:21:38 **Motion:** Rep. Stoker moved that **HB 653 DO PASS.**

Discussion:

03:21:51 **Motion:** Rep. Driscoll moved that **HB 653 BE AMENDED with a CONCEPTUAL AMENDMENT for PAGE 1, LINE 28, REPLACE PRIMARY WITH SECONDARY WITH A PERIOD AT THE END and STRIKE THE REMAINDER OF SENTENCE.**

03:22:52 **Vote:** Motion that **HB 653 BE AMENDED** carried 11-6 by roll call vote with Reps. Gallik, Koopman, Cordier, McGillvray, Jore, and Rice voting no. Rep. Ward voted by proxy.

03:23:43 **Motion:** Rep. Stoker moved that **HB 653 DO PASS AS AMENDED.**

03:23:54 **Substitute Motion/Vote:** Rep. Everett made a substitute motion that **HB 653 BE TABLED.** Substitute motion carried 9-8 by roll call vote with Reps. Gallik, French, Raser, Cordier, Driscoll, Peterson, O'Hara, and Ebinger voting no. Rep. Ward voted by proxy.

EXECUTIVE ACTION ON HB 629

03:25:33 **Motion:** Rep. Stoker moved that **HB 629 DO PASS.**

03:25:45 **Motion:** Rep. Kottel moved that **HB 629 BE AMENDED.**
[EXHIBIT\(juh38a05\)](#)

Discussion:

03:26:36 **Motion/Vote:** Rep. Kottel moved to **SEGREGATE PARAGRAPHS 2 and 6.** Motion carried unanimously by voice vote. Rep. Ward voted by proxy.

03:30:26 **Motion:** Rep. Kottel moved that **HB 629 DO PASS AS AMENDED.**

03:30:43 **Motion/Vote:** Rep. Kottel moved **PARAGRAPHS 1, 3, 4, 5, 7, 8 of AMENDMENT**. Motion carried unanimously by voice vote. Rep. Ward voted by proxy.

03:30:55 **Motion:** Rep. Kottel moved that **HB 629 DO PASS AS AMENDED**.

Discussion:

03:32:33 Rep. Gallik

03:32:56 **Substitute Motion/Vote:** Rep. Kottel made a substitute motion that **HB 629 BE AMENDED with a CONCEPTUAL AMENDMENT for PARAGRAPHS 2 and 6; STRIKE SECTION D**. Motion carried 16-1 by voice vote with Rep. Gallik voting no. Rep. Ward voted by proxy.

03:36:31 **Motion:** Rep. Stoker moved that **HB 629 DO PASS AS AMENDED**.

Discussion:

03:36:50 **Motion/Vote:** Rep. Gallik moved a **CONCEPTUAL AMENDMENT to insert "...A MEDIATED PLEA IS SUBJECT TO A JUDGE'S APPROVAL..."** Motion carried unanimously by voice vote. Rep. Ward voted by proxy.

03:39:03 **Motion:** Rep. Stoker moved that **HB 629 DO PASS AS AMENDED**.

Discussion:

03:39:20 Rep. Peterson

03:40:57 Chairman Rice postponed Executive Action on HB 629 due to a new Fiscal Note being required for the Amendments added.

EXECUTIVE ACTION ON HB 641

03:41:20 **Motion:** Rep. Stoker moved that **HB 641 DO PASS**.

Discussion:

03:41:27 Rep French

03:41:54 Rep. Raser

03:42:22 Rep. McGillvray

03:44:20 Rep. O'Hara

03:45:14 Rep. Kottel
03:48:08 Rep. Jore
03:49:17 Rep. Gallik
03:50:02 Rep. Peterson

03:51:12 **Motion:** Rep. McGillvray moved that **HB 641 BE AMENDED with a CONCEPTUAL AMENDMENT FOR LINE 5, LINES 14 and 15 adding "...proximity...."**

03:52:05 Mr. Niss

03:53:34 Rep. McGillvray withdrew amendment for HB 641.

03:54:31 Rep. O'Hara
03:55:31 Rep. McGillvray
03:55:37 Rep. Kottel
03:55:57 Rep. French
03:56:41 Rep. Cordier
03:58:28 Rep. Rice

03:58:50 **Vote:** Motion that **HB 641 DO PASS** carried 9-8 by roll call vote with Reps. Stoker, French, Gallik, Cordier, Peterson, O'Hara, McGillvray, and Ward voting no. Rep. Ward voted by proxy.

Committee Business:

04:00:17 Chairman Rice

ADJOURNMENT

Adjournment: 12:00 P.M.

REP. DIANE RICE, Chairman

PAM SCHINDLER, Secretary

DR/ps

Additional Exhibits:

EXHIBIT ([juh38aad.pdf](#))